

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

File No. PDC09-033, 2500 Senter Road Residential Project:

A Planned Development Rezoning to allow for the development of a 102-unit multi-family affordable apartment community on a 3.46 gross acre site located on the east side of Senter Road, approximately 610 feet southerly of Tully Road. The project is located in Council District: 7.

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site.

The purpose of this notice is to inform the public of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on June 14, 2010, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 26, 2010**, and ends on **June 14, 2010**. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.


The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

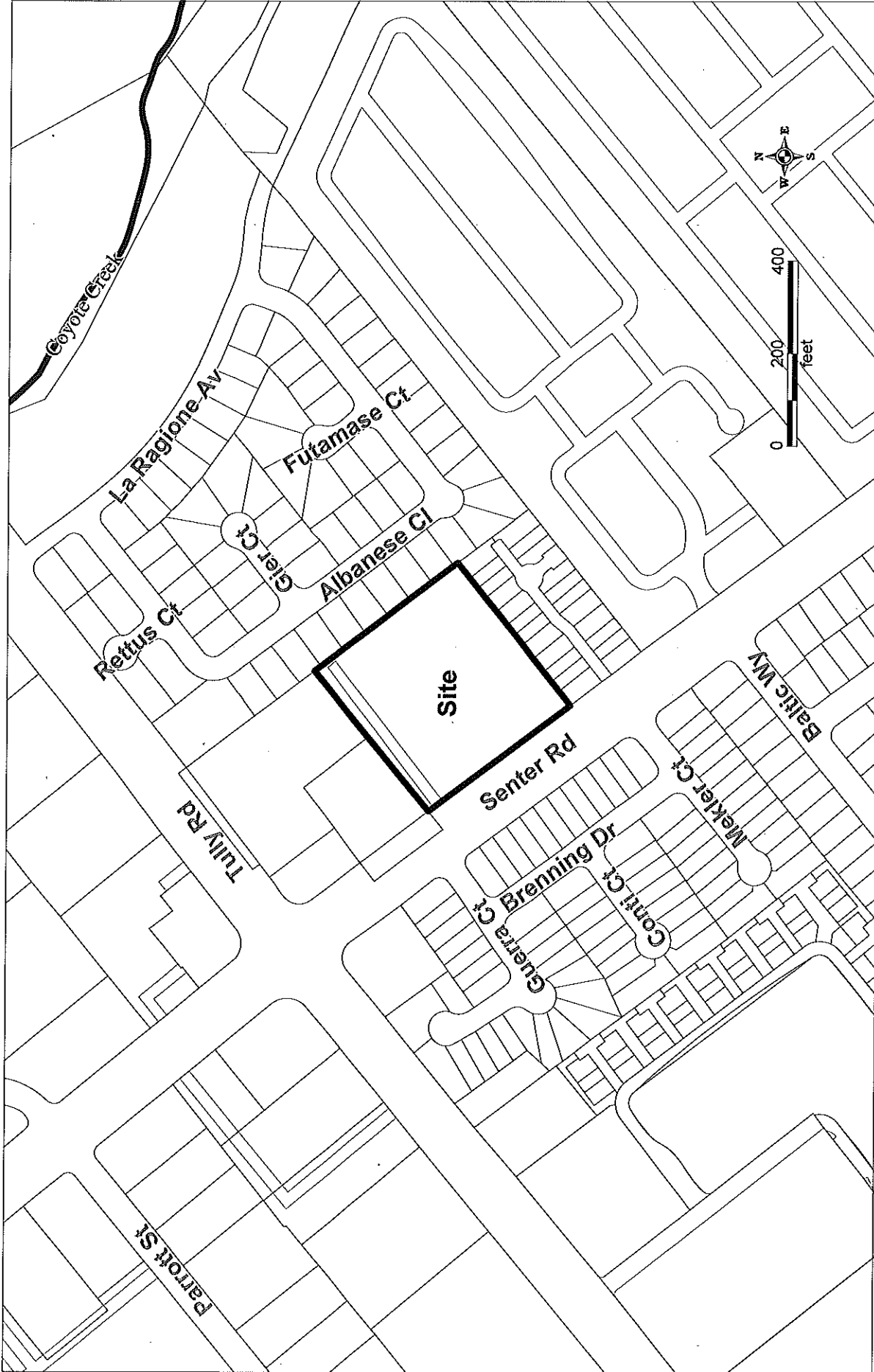
For additional information, please call John Davidson at (408) 535-7895.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

5/26/2010

Circulated on: May 26, 2010


John Davidson
Deputy



File No: PDC09-033
District: 7



Prepared by the Department of Planning,
Building, and Code Enforcement
12/15/2009

Location

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: 2500 Senter Road Residential Project

PROJECT FILE NUMBER: PDC09-033

PROJECT DESCRIPTION: Planned Development Rezoning A Planned Development Rezoning to allow for the development of a 102-unit multi-family affordable apartment community on a 3.46 gross acre site located on the east side of Senter Road, approximately 610 feet southerly of Tully Road.

PROJECT LOCATION & ASSESSORS PARCEL NO.: 2500 Senter Road, APN 497-41-098

COUNCIL DISTRICT: 7

APPLICANT CONTACT INFORMATION: Jonathan Noble, Charities Housing Development Corporation, 1400 Parkmoor Avenue, Suite 190 San Jose, CA 95126

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

III. AIR QUALITY –

Mitigation Measure AIR-1: The following construction practices shall be implemented at the project site during the construction and pre-construction phases of the project:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Mitigation Measure AIR-2: The project contractor shall use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). This construction practice shall be implemented at the project site during the pre-construction and construction phases of the project.

IV. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

V. **CULTURAL RESOURCES** –

Mitigation Measure CULT-1: Construction-related ground disturbance below soil that is demonstrated to be fill¹ shall be monitored by a qualified archaeologist. Archaeological monitors shall be empowered to halt construction activities at the location of the discovery to review possible archaeological material and to protect the resource while the finds are being evaluated. Monitoring shall continue until, in the archaeologist's judgment, cultural resources are not likely to be encountered.

Archaeological monitoring shall be implemented through the execution of an Archaeological Monitoring and Evaluation Plan (AMEP). The purpose of the AMEP is to ensure that

¹ The presence and depth of fill soils in the project area should be corroborated by geo-technical information.

significant archaeological deposits discovered during construction are identified, evaluated, and appropriately treated through the use of a pre-established research design and field evaluation strategy, consistent with the requirements of *CEQA Guidelines* §15126.4 (b)(3)(C). The AMEP shall be approved by the City well in advance of construction, and its implementation should be made a condition of the issuance of a grading or building permit for the project. The AMEP shall be prepared by professionals who meet the Secretary of the Interior's Professional Qualifications Standards in historical archaeology and prehistoric archaeology (36 CFR Part 61, Appendix A).

The AMEP shall include a construction monitoring component and an evaluation component. The *monitoring* component of the AMEP should refine the archaeological sensitivity of the project area to: (1) identify areas that will be subject to monitoring; (2) define the frequency of monitoring; and (3) identify those areas with little to no possibility of containing intact deposits. This assessment shall focus on the project area's land use history based on historical maps and photographs, past site improvement/utilities construction plans, historical documents, and soils/geotechnical information. The possibility for encountering human remains during construction shall also be addressed by consultation with the appropriate descendant groups.

The *evaluation* component of the AMEP would guide fieldwork if archaeological resources identified during monitoring are evaluated for legal significance. The purpose of this component is to establish an evaluation process to shorten the time necessary to respond to and evaluate discoveries made during archaeological monitoring. The evaluation component shall contain a field study and technical analysis work plan to guide the methods and procedures to be used during the significance evaluation. The treatment of human remains during the evaluation process shall be addressed, and procedures for the respectful treatment of such remains shall be developed through consultation with descendant communities prior to the final draft of the AMEP.

Mitigation Measure CULT-2: If paleontological resources are discovered during project activities, all work within 25 feet of the discovery shall be redirected and a qualified paleontologist contacted to assess the finds, consult with agencies as appropriate, and make recommendations regarding the treatment of the discovery. Project personnel should not collect or move any paleontological resources. It is recommended that adverse effects to such paleontological resources be avoided by project activities. If such resources cannot be avoided, they shall be assessed to determine their paleontological significance. If the paleontological resources are not significant, avoidance is not necessary. If the paleontological resources are significant, they will need to be avoided or adverse effects must be mitigated. Upon completion of the assessment, the paleontologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the paleontological resources discovered. The report shall be submitted to the project proponent and the University of California Museum of Paleontology

VI. GEOLOGY AND SOILS –

Mitigation Measures GEO-1: Construction of the proposed project would follow the recommendations and requirements of the geotechnical report prepared by AMSO Consulting Engineers for the project, dated July 20, 2009.

VII. HAZARDS AND HAZARDOUS MATERIALS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VIII. HYDROLOGY AND WATER QUALITY – The project will not have a significant impact on this resource, therefore no mitigation is required.

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE –

Mitigation Measure NOISE-1: The project contractor shall comply with the following measures:

- Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
 - The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
 - The contractor shall locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

- The developer shall implement a Construction Management Plan approved by the Director of Planning, Building and Code Enforcement to minimize impacts on the surrounding sensitive land uses to the fullest extent possible. The Construction Management Plan shall include early and frequent notification and communication with the neighborhood of the construction activities to minimize impacts of construction upon adjacent sensitive land uses.
- The contractor shall prohibit unnecessary idling of internal combustion engines.
- The developer shall designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

Mitigation Measure NOISE-2: The project developer shall comply with the following measure:

All new multi-family housing is subject to the requirements of Title 24, Part 2, of the State Building Code. Since noise levels exceed 60 dBA L_{dn} on the project site, all units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise and reduce the noise levels inside the units by 25 dBA, thus maintaining an interior noise level of 45 dBA L_{dn} . Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels can be sufficiently attenuated to 45 dBA L_{dn} to the satisfaction of the Director of Planning, Building and Code Enforcement.

- XII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **June 14, 2010**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: May 26, 2010



Deputy

Adopted on: _____

Deputy

Revised 10..20.08 sbw